

<b>ISSUING AUTHORITY:</b> Indiana Department of Correction, Reentry Division, Community Corrections Section		<b>REVISED DATE:</b>  06/02/2010
<b>APPLICABLE TO:</b> Community Corrections Grant Act Programs		
<b>TITLE:</b> Procedural Bulletin #7	<b>SUBJECT:</b> Direct Placements	
<b>TEXT:</b>  <div> <b>PURPOSE:</b>          To provide guidelines regarding the Direct Placement of Offenders          In Community Corrections programs (IC 35-38-2.6).       </div> <div> <b>LEGAL REFERENCE:</b>           IC 35-38-1-7          IC 35-38-1-7.1          IC 35-38-2.6          IC 35-42-4.1-9          IC 35-46-1-3          IC 35-50-2-2          IC 35-50-2-2.1          IC 35-50-6          IC 4-22-2          IC 9-30-5-3          Million v. State No. 23A01-9407-CR-210          SB 340       </div> <div> <b>RELATED BULLETINS:</b> </div>		

**I. Applicability of Direct Placement Statute (IC 35-38-2.6)**

- A. The above statute applies to the sentencing of a person convicted of a felony whenever any part of the sentence may NOT be suspended under IC 35-50-2-2 or IC 35-50-2-2.1.
- B. Eligibility for direct placement in a Community Corrections program does NOT include person convicted of any of the following:
  - 1. Sex crimes under IC 35-42-4 or IC 35-46-1-3:
    - a. Rape (IC 35-42-4-1) as Class A or B felony;
    - b. Criminal deviate conduct (IC 35-42-4-2), as a Class A or B felony;
    - c. Child molesting (IC 35-42-4-3) as a Class A, B or C felony;
    - d. Child exploitation (IC 35-42-4-4) as a Class D felony or Class A misdemeanor (Possession of Child Pornography);
    - e. Vicarious sexual gratification (IC 35-42-4-5) as a Class A, B, C, or D felony;
    - f. Child solicitation (IC 35-42-4-6) as a Class D felony;
    - g. Child Seduction (IC 35-42-4-7) as a Class D felony;
    - h. Sexual Battery (IC 35-42-4-8) as a Class C or D felony;
    - i. Sexual misconduct with a minor (IC 35-42-4-9) as a class A, B, C, or D felony;
    - j. Incest (IC 35-46-1-3) as a Class B or C felony.
  - 2. Offenses related to controlled substances listed in IC 35-38-1-7.1 for which a Class A or Class B felony is imposed:
    - a. Dealing in cocaine or a narcotic drug (IC 35-48-4-1);
    - b. Dealing in a schedule I, II, or III, controlled substance (IC 35-48-4-2);
    - c. Dealing in a schedule IV controlled substance (IC 35-48-4-3);
    - d. Dealing in a schedule V controlled substance (IC 35-48-4-4);
    - e. Possession of cocaine or a narcotic drug (IC 35-48-4-6).
  - 3. Any of the felonies listed in IC 35-50-2-2 (b) (4):
    - a. Murder (IC 35-42-1-1);
    - b. Battery (IC 35-42-2-1) with a deadly weapon;
    - c. Sexual battery (IC 35-42-4-8) with a deadly weapon;
    - d. Kidnapping (IC 35-42-3-2)
    - e. Confinement (IC-35-42-3-3);
    - f. Rape (IC 35-42-4-1) as a Class A felony;
    - g. Criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
    - h. Child molesting (IC 35-42-4-3) as a Class A or B felony;
    - i. Robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
    - j. Arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
    - k. Burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
    - l. Resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

- m. Escape (IC 35-44-3-5) with a deadly weapon;
    - n. Rioting (IC 35-45-1-2) with a deadly weapon;
    - o. Dealing in cocaine or a narcotic drug (IC 35-48-4-1) as a Class A felony;
    - p. Dealing a schedule I, II, III, controlled substance (IC 35-48-4-2) as a Class A felony, if the amount of controlled substance involved has an aggregate weight of three (3) grams or more.
  - C. Misdemeanor or alternate misdemeanor sentences are NOT to be considered Direct Placements.
  - D. The only misdemeanor offense would be operating a vehicle while intoxicated (IC 9-30-5-3).
- II. Type of Program (IC 35-38-2.6-2)**
  - A. The types of programs defined by the preceding statute are programs consisting of residential and work release, electronic monitoring, day treatment, or day reporting that are operated under a Community Corrections plan as provided under IC 11-12-2; or operated by or under contract with a court or county.
- III. Recommended Violation Procedures of a Direct Placement (IC 35-38-2.6-5)**
  - A. Notice of Program Rules
    - 1. Written notice of the program rules should be given to the defendant prior to or at the time of the commencement of placement;
    - 2. The defendant should be required to read, sign and date the information;
    - 3. A copy of this notice should then be given to the defendant and an additional copy should be kept with the defendant's file or packet maintained by the CCGAP.
  - B. If a person violates the terms of the placement, the court may, after a hearing (as described in *Million v. State*: No. 23A01-9407-CR-210), do any of the following;
    - 1. Change the terms of the placement;
    - 2. Continue the placement;
    - 3. Revoke the placement and commit the person to the Department of Correction for the remainder of the person's sentence.
- IV. Additional Provisions**
  - A. The Court may suspend the sentence and order a person to be placed in a Community Corrections program as an alternative to commitment to the Department of Correction. Reasonable terms may be imposed on the placement. Placement is subject to the availability of residential beds or home detention units.
  - B. An offender placed under these provisions is responsible for his/her own medical care while in the program.
  - C. Placement is subject to the Community Corrections program receiving a written pre-sentence report from the probation agency.
  - D. As defined in IC 35-38-2.6-7, when a person completes a placement under IC 35-38-2.6, the court shall place the person on probation.

# **COMMUNITY CORRECTIONS AMENDMENT LANGUAGE**

SB340 Amendment to Parole Board Duties Bill

## **Section 1. IC 11-11-5-1 Refers to Conduct and Discipline**

This provision clarifies that both people placed in Community Corrections and assigned to Community Transition Program are subject to the standards set forth in Chapter 5, namely eligible for reduction of credit time and Conduct Adjust Board process.

## **Section 3. IC 11-12-2-4 Refers to State Grants to Counties for Community Corrections and Charges to Participating Counties for Confined Offenders**

Subsection (b)(3) comments that IDOC Community Corrections will develop a method to evaluate components to determine best practices for local community corrections programs.

## **Section 4. IC 11-12-2-5 Refers to Powers and duties of department and commissioner**

Subsection (a)(11) comments that local community corrections should submit in their proposed budget an evaluation of best practices for each community corrections program component.

## **Section 11. IC 35-38-2.5-2 Refers to the definition of “Home” for purpose of Home Detention**

Strikes the reference “or the residence of another person who is not part of the social unit formed by the offender’s immediate family”. This language would exclude alternative living arrangements that some local community corrections programs were having.

## **Section 12. IC 35-38-2.6-4.2 Refers to Direct Placement in Community Corrections Program**

Section 4.2(a) requires community corrections to come with criteria and procedures to determine if an individual is eligible for direct placement

Subsection (b) requires community corrections to develop a system to determine if an offender under direct placement is in violation of their terms under direct placement.

Subsection (c) requires that community corrections agencies with offenders charged by court to be on community corrections will provide law enforcement and contract agencies a list of offenders and alleged offender under the direct placement supervision. It also details what is supposed to be communicated.

Subsection (d) requires that if a court charges a community corrections program to monitor an offender by way of the electronic monitoring it should be to minimize the possibility that the offender will enter another residence or structure without detection of a violation and comply to IC 35-38-2.5-3.

Subsection (e) requires that if a court charges a community corrections program with supervision under direct placement that they will maintain or contract with a contract agency to maintain constant supervision of the offender and have adequate staff available to respond to a violation 24 hours a day.

Subsection (f) requires that a community corrections program may contract with a contract agency if they maintain supervision requirements set by local community corrections advisory boards and if the contract agency is able to notify community corrections within one hour of an alleged violation. The community corrections advisory board can select a short reporting time.

Subsection (g) requires a community corrections program or contract agency to contact local law enforcement upon determining that an offender is violation of a direct placement order.

#### **Section 13 IC 35-38-2.6-4.5 Refers to Home detention in community corrections program**

Requires community corrections to comply to the same provisions which are provided in Home Detention under the 2.5 local probation statute.

#### **Section 14 IC 35-38-2.6-6 Refers to the definition of “Home” for purpose of Direct Placement**

Strikes certain terms which weren't allowed to be considered as a home for placement purposes

#### **Section 16 IC 35-50-6-5 Refers to Deprivation of credit time**

Subsection (a)(3)(B) allows for community corrections to deprive offenders who violate the terms of their program of credit time while on Community Corrections